

1  
2  
3  
4  
5  
6  
7  
8                   UNITED STATES DISTRICT COURT  
9                   WESTERN DISTRICT OF WASHINGTON  
10                  AT SEATTLE

11                  UNITED STATES OF AMERICA,

12                  Plaintiff,

13                  v.

14                  ABEL CRUZ,

15                  Defendant.

CASE NO. 2:22-cr-00179-LK

ORDER CONTINUING TRIAL  
AND PRETRIAL MOTIONS  
DEADLINE

16         This matter comes before the Court on Defendant Abel Cruz's Unopposed Motion to  
17 Continue the Trial and Pretrial Motions Deadline, requesting that trial be continued to a date in  
18 January or February 2025, and that the pretrial motions deadline be extended to a date six weeks  
19 prior to trial. Dkt. No. 115 at 1.<sup>1</sup> Mr. Cruz has filed a waiver under the Speedy Trial Act,  
20 "knowingly and voluntarily and with advice of counsel" waiving his right to a speedy trial through  
21 at least March 1, 2025. Dkt. No. 114 at 1.

22  
23  
24         

---

<sup>1</sup> Mr. Cruz's motion is inaccurately noted on the docket for consideration on April 22, 2024. Because the motion is unopposed, it should be noted for consideration the same day as filing. LCrR 12(b)(8).

1       Mr. Cruz is charged with Conspiracy to Distribute Controlled Substances in violation of  
2 21 U.S.C. §§ 841(a)(1), (b)(1)(A), (b)(1)(C), and 846. Dkt. No. 1 at 1–2. This case is scheduled  
3 for a pretrial conference on April 12, 2024, Dkt. No. 99, and for trial beginning on April 22, 2024,  
4 Dkt. No. 62 at 3. The pretrial motions deadline lapsed on March 11, 2024. Dkt. No. 65 at 2. On  
5 March 18, 2024, Mr. Cruz’s former counsel moved to withdraw from representation, and the  
6 Honorable Brian A. Tsuchida granted the motion soon thereafter. Dkt. Nos. 104–06, 108. Mr.  
7 Cruz’s current counsel was appointed on April 1, 2024. Dkt. No. 112.

8       Mr. Cruz now requests a new trial date because his new counsel “needs additional time to  
9 prepare.” Dkt. No. 115 at 3. Referencing the Court’s appointment of a Coordinating Discovery  
10 Attorney in this matter, counsel avers that “discovery is voluminous,” consisting of 3,000 files  
11 encompassing 20 gigabytes of data, plus pole camera footage and GPS phone and vehicle data. *Id.*  
12 Thus, counsel “needs time to: (1) review the discovery; (2) meet with Mr. Cruz, with interpreter  
13 assistance, to review the discovery and discuss defenses and case strategies; (3) conduct any  
14 necessary factual investigation; and, (4) research legal issues and draft potential pretrial motions.”  
15 *Id.* at 4. In addition, although counsel acknowledges that the pretrial motions deadline passed  
16 “shortly before Mr. Cruz’s prior counsel sought withdrawal” and “without prior counsel filing  
17 motions,” he “seeks the opportunity to review the case materials and independently assess the need  
18 to file pretrial motions.” *Id.*

19       Pursuant to 18 U.S.C. § 3161(h)(7)(A), the Court finds that the ends of justice served by  
20 granting a continuance of trial outweigh the best interest of the public and Mr. Cruz in any speedier  
21 trial. Specifically, the Court finds that failure to grant the requested continuance would likely result  
22 in a miscarriage of justice and would deny defense counsel the reasonable time necessary for  
23 effective preparation, taking into account the exercise of due diligence, due to counsel’s need for  
24 more time to review discovery, consider pretrial motions and defenses, consult with his client, and

1 prepare for trial. *See* 18 U.S.C. § 3161(h)(7)(B)(i), (iv). The Court finds that the additional time  
2 requested is a reasonable period of delay and will be necessary to provide counsel and Mr. Cruz  
3 reasonable time to accomplish the above tasks.

4 With respect to Mr. Cruz's belated request for an extension of the pretrial motions deadline,  
5 the Court repeatedly cautioned Mr. Cruz's prior counsel that absent a showing of good cause, the  
6 failure to timely raise a pretrial objection required by Rule 12 constitutes a waiver. *See* Dkt. No.  
7 50 at 2 n.1; Dkt. No. 62 at 2–3; Dkt. No. 65 at 2. Nevertheless, in this instance, due to the  
8 circumstances occasioning prior counsel's withdrawal at the same time pretrial motions were due  
9 and the recent appointment of Mr. Cruz's current counsel, the Court finds good cause for extending  
10 the pretrial motions deadline.

11 For these reasons, the Court GRANTS Mr. Cruz's motion, Dkt. No. 115, and ORDERS  
12 that the trial date for Mr. Cruz shall be continued from April 22, 2024 to January 13, 2025, and  
13 that the pretrial motions deadline shall be continued to December 2, 2024. It is further ORDERED  
14 that, pursuant to 18 U.S.C. § 3161(h)(7)(A) and (B), the period of delay from the date of this Order  
15 to the new trial date is EXCLUDED when computing the time within which Mr. Cruz's trial must  
16 commence under the Speedy Trial Act.

17 In light of the above, the Court STRIKES the pretrial conference scheduled on April 12,  
18 2024 at 10:00 a.m. Dkt. No. 99.

19  
20 Dated this 9th day of April, 2024.

21  
22   
23 Lauren King  
24 United States District Judge